

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9, 11-13 and 15-19 are pending, Claims 1, 12 and 16 having been amended by way of the present amendment, and Claims 10 and 14 having been previously canceled.

In the outstanding Office Action Claims 1-9, 11-13 and 15-19 were rejected under 35 U.S.C. §102(b) as being anticipated by Marturano et al. (U.S. Patent No. 5,636,230, hereinafter Marturano) in view of Kumar (U.S. Patent No. 6,269,080).

The amendments to Claims 1, 12 and 16 find support in the specification, at least at page 14, line 25 to page 20, line 8, and therefore no new matter is added.

Claim 1 is directed to a transmission control method in a multicast service and includes a step of determining by the information delivery apparatus, in accordance with a given standard without receiving a request for retransmission that at least one of the radio terminals is predetermined, prior to transmission of the multicast information to the radio stations, as being the retransmission-permitted terminal permitted for retransmission of the multicast information.

The outstanding Office Action recognizes that Marturano et al. does not describe the step of determining by the information delivery apparatus... However, the Office Action asserts that Kumar describes this feature of the claimed invention. Applicants respectfully traverse this assertion. Moreover, it is respectfully submitted that Kumar does not describe the above-described “determining step”. Rather, Kumar describes an active receiver selection process, in which the FDSP server selects, in response to a token request message received from a number of FDSP clients, the first FDSP client that responds as the active receiver. (See e.g. step S05 in Fig. 5 of Kumar).

The invention defined by amended Claim 1, for example, requires that the information delivery apparatus determines, in accordance with a given standard without receiving a

request for retransmission, that at least one of the radio terminals is predetermined prior to transmission of the multicast information as being the retransmission-permitted terminal. Moreover, the information delivery apparatus (e.g. base station) is able to determine, without receiving a NACK from the radio terminals and in accordance with a given standard (e.g. the techniques for determination as per Figs. 7-11, 12 and 14), that at least some of the radio terminals (e.g. mobile stations) are predetermined (or identified) as being the retransmission-permitted terminals.

Because Kumar does not teach the above-described “determining step”, it is respectfully submitted that Kumar does not cure the deficiencies of Marturano et al. Therefore, no matter how Kumar and Marturano et al. are combined, the combination does not teach or suggest all of the elements of amended Claim 1. Although of different statutory class, and/or scope, Claims 2-9, 11-13 and 15-19 are believed to also patentably define over the asserted prior art.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-9, 11-13 and 15-19, as amended, patentably defines over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
BDL:mai



Bradley D. Lytle

Registration No. 40,073